

A commercial court for COMESA

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Since its creation in 2004, the Djibouti Free Zone (DFZ) has contributed significantly to the growth of trade from all over the world. With its highly strategic location, the Republic of Djibouti intends to unlock the region's true potential by increasing the confidence of businesses with a commercial interest in the region.

As part of this strategy, the DFZ is creating an International Commercial Court on which will sit a renowned panel of judges from several countries. The purpose of creating this legal framework is to provide a complete system that will offer swift and independent justice to settle regional and international commercial disputes. The creation of such a framework will ensure the highest international standards of legal procedure and processes while providing the confidence, certainty and efficiency expected by commercial entities that do or intend to do business in Africa.

For Djibouti, the Court is seen as a key element to allow the rapid resolution of trade disputes that can arise as part of the ever-increasing flow of goods through its ports. The Court will also allow the development of the local financial services system by allowing access to judges expert in resolving complex financial matters.

Given the important intention and full commitment to further regional integration, this specialist Commercial Court will be named the International Commercial Court of Djibouti.

The judicial organisation of the Commercial Court is inspired by the Dubai International Financial Centre (DIFC) and its expertise in building one of the world's leading commercial courts, including a body of precedent. The DIFC Courts have agreed to provide support to the establishment of the Commercial Court, through, among other areas, judicial sharing programmes, technological and logistical assistance.

Based in the UAE, the DIFC Courts are unique amongst the leading commercial courts in having been established as an English language common law system in a country with an Arabic language civil law system.

The Commercial Court will consist of a Court of First Instance and a Court of Appeal. In addition, a Small Claims Tribunal shall be established. The purpose of all three courts is to guarantee a streamlined procedure that will provide a diligent commercial resolution.

The Commercial Court will be an independent

English language common law judiciary located within the DFZ. The Commercial Court's jurisdiction will govern and hear both regional and international civil and commercial disputes. It will provide instant access to an independent, efficient and yet predictable judicial system. Judgments rendered by the Commercial Court will provide certainty to commercial parties who will be given an opportunity to swiftly resolve the most complex of cases. Parties to commercial contracts will have the choice to opt into the jurisdiction of the Commercial Court.

In addition to the above elements, the Republic of Djibouti has a number of further characteristics that will be employed and developed to foster and strengthen the new legal system. The Commercial Court's other characteristics mentioned below will preserve, and foster the confidence of regional and international investors to carry out further investments in Africa.

The Commercial Court will be presided over by a very experienced and internationally renowned judiciary to uphold the commercial and legal interests of investors and businesses. The judicial panel will be selected from among the most experienced judges, well versed in the application of common law rules to commercial cases, with a distinctive international flavour that will match the global reach of the Commercial Court.

With judges of the highest calibre and from leading courts across the common law world, the judicial panel will reflect the values and diversity of COMESA and common law jurisdictions. The independent international judicial panel will provide assurance to the wider business community that civil and commercial disputes will be heard independently, impartially, speedily and in a way that is commercially friendly.

Given the international nature of disputes that are likely to be heard in the Commercial Court, it will be equipped with cutting edge technology to cater to the needs and convenience of international parties. The infrastructure of the Commercial Court will be tailored to meet the requirements of international litigation, including electronic filing.

The Commercial Court will act as an independent international centre, separate to any state, constantly promoting greater judicial cooperation, and clearing of the obstacles hindering investment and business growth within the wider business environment. **F**